

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

CASE NO.

NORMAN MILES,

Plaintiff,

v.

STUDENT AID CENTER,

Defendant.

**DEFENDANT STUDENT AID CENTER, INC.'S
NOTICE OF REMOVAL**

Defendant STUDENT AID CENTER, INC. ("SAC"), gives notice of the removal of the civil action styled *Norman Miles v. Student Aid Center*, Case No. 2015-28531, from the Court of Common Pleas, in Montgomery County, Pennsylvania to this Court, whose district and division embraces the judicial circuit wherein this action is now pending. SAC reserving any and all defenses available under Rule 12 of the Federal Rules of Civil Procedure or otherwise, timely files this Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446, and states as grounds:

1. This action was commenced in the Court of Common Pleas in Montgomery County, Pennsylvania on or about October 27, 2015 by Plaintiff Norman Miles. SAC was allegedly served with process through First Class and Certified Mail on October 30, 2015. Pursuant to 28 U.S.C. 1446(a), all pleadings and papers which have been filed in the state court action are attached hereto as Composite Exhibit A.

2. Plaintiff seeks relief under the Telephone Consumer Protection Act, 47 U.S.C. § 227 ("TCPA"). This Court has original federal question jurisdiction over the State Court Action under the provisions of 28 U.S.C. § 1331, which gives the District Court jurisdiction over actions arising under the laws of the United States. *See Mims v.*

Arrow Financial Services LLC, 132 S. Ct. 740, 748 (2012) (“Because federal law creates the right of action and provides the rules of decision, Mims TCPA claim, in 28 U.S.C. § 1331’s words, plainly ‘aris[es] under’ the ‘laws … of the United States.’”). There is already a proposed class action pending in this Court against SAC for alleged violations of the TCPA. That matter is *Abella v. Student Aid Center, Inc.*, Case No. 2:15-cv-03067 (“Abella matter”). The Norman Miles suit falls within this proposed class. Thus, removal and joinder of the Norman Miles suit with the *Abella* matter is proper.

3. This Court also has diversity jurisdiction over the Norman Miles suit pursuant to 28 U.S.C. § 1332. Plaintiff is a citizen and resident of Pennsylvania. *See* Complaint ¶ 1. SAC is a foreign corporation organized and existing under the laws of the state of Florida with its principle place of business in Florida. *See* Complaint ¶ 2. The amount in controversy sought in the Norman Miles suit exceeds \$75,000.00, exclusive of interest and costs taking into account the amount sought in the *Abella* matter. If the class is certified in the *Abella* matter, then the Norman Miles suit would fall within the *Abella* matter. Accordingly, removal is proper based upon 28 U.S.C. § 1332 and 28 U.S.C. § 1441 because the parties are diverse and the amount at issue exceeds the jurisdictional requirement.

4. Additionally, Plaintiff also alleges violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law. This Court should exercise supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over this cause of action.

5. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is being filed no more than 30 days after SAC’s receipt of Plaintiff’s Complaint, and is being filed within one year of commencement of the action. As such, SAC’s removal is timely. By effecting this removal, however, SAC does not waive any defenses that may be available to it.

6. Venue for this action lies in the United States District Court for the Eastern District of Pennsylvania, inasmuch as Plaintiff filed the underlying state court action in this judicial district.

7. In accordance with 28 U.S.C. § 1446(d), promptly after filing this Notice of Removal, SAC will give written notice of the removal to all parties, and will file this Notice of Removal with the Court of Common Pleas for Montgomery County, Pennsylvania. No previous application has been made by SAC for this or similar relief in this action.

WHEREFORE, based on the forgoing, SAC respectfully requests that the action now pending against it in the Court of Common Pleas for Montgomery County, Pennsylvania, be removed to this Court. SAC further requests that this Court accept jurisdiction of this action, that this action be placed upon the docket of this Court for further proceedings the same as though this action originally had been instituted in this Court, and for further relief as this Court deems are just and equitable.

Dated this 9th day of November, 2015.

Respectfully submitted,

SANCHEZ-MEDINA, GONZALEZ, QUESADA,
LAGE, CRESPO, GOMEZ, MACHADO & PREIRA
LLP
201 Alhambra Circle, Suite 1205
Coral Gables, Florida 33134
Telephone: (305) 377-1000
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BY:/S GUSTAVO D. LAGE

GUSTAVO D. LAGE, ESQ.

Pro Hac Vice Florida Bar No. 972551

ECKELL, SPARKS, LEVY, AUERBACH, MONTE,
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BY:/S PATRICK T. HENIGAN
PATRICK T. HENIGAN
Pennsylvania Bar No. 49448

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by
email/U.S. Mail on November 9th, 2015, on all counsel of record on:

Fred Davis, Esq.
Fred Davis, P.A.
500 Office Center Drive, Ste. 400
Ft. Washington, PA 19034
Tel: 855-432-8475
Fax: 855-435-9294
fdavis@usacreditlawyer.com



Debt Defense, Unfair Debt Collection, Lemon Law, Defective Consumer Products
WWW.USACREDITLAWYER.COM; TOLL-FREE:1-855-432-8475; EMAIL-fdavis@usacreditlawyer.com
CORPORATE HEADQUARTERS: 500 OFFICE CTR DR-SUITE 400-FT. WASHINGTON, PA 19034
***Board Certified by the New Jersey Supreme Court as a Civil Trial attorney
**Awarded "Rising Star" by Pennsylvania Superlawyer Magazine

October 27, 2015

Sent by First Class and Certified Mail

STUDENT AID CENTER
2500 Northwest 79th St-Ste #190
Doral, FL 33122

RE: Elizabeth Miles v Student Aid Center; Norman Miles v Student Aid Center
Montgomery C.C.P: Docket No.'s :2015 28530; 2015-28531

Dear Sir/Madam:

Please accept the enclosed Complaints in accordance with Pennsylvania Rule of Civil Procedure 403. Please be advised also that a responsive pleading is due within twenty days of receipt, and that you are hereby ordered to cease and desist all communications with Norman and Elizabeth Miles, their heirs assigns, relatives or representatives, and direct all communications exclusively through my office. Please contact me if you would like to discuss a resolution. I can be reached by email or phone at the numbers listed above.

Very Truly Yours,


Fred Davis, Esq.

Enclosure



IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

NORMAN MILES

vs.

STUDENT AID CENTER

NO. 2015-28531

NOTICE TO DEFEND - CIVIL

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERENCE SERVICE
MONTGOMERY BAR ASSOCIATION
100 West Airy Street (REAR)
NORRISTOWN, PA 19404-0268

(610) 279-9660, EXTENSION 201

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

NORMAN MILES

vs.

STUDENT AID CENTER

NO. 2015-28531

CIVIL COVER SHEET

State Rule 205.5 requires this form be attached to any document commencing an action in the Montgomery County Court of Common Pleas. The information provided herein is used solely as an aid in tracking cases in the court system. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Name of Plaintiff/Appellant's Attorney: FRED DAVIS, Esq., ID: 93907

Self-Represented (Pro Se) Litigant

Class Action Suit Yes No

MDJ Appeal Yes No **Money Damages Requested**

Commencement of Action:

Amount in Controversy:

Complaint \$50,000 or less

Case Type and Code

Miscellaneous: _____

Other: _____

Other: TCPA AND CONSUMER FRAUD

Fred Davis, Esquire
Identification No. 93907
DAVIS CONSUMER LAW FIRM
500 OFFICE CTR DR-STE 400
FT. WASHINGTON, PA 19034
(T)1-855-432-8475/(F)1-855-435-9294
fdavis@usacreditlawyer.com

ATTORNEY FOR PLAINTIFF

THIS IS AN ARBITRATION
MATTER. ASSESSMENT OF
DAMAGES HEARING IS
REQUESTED.

NORMAN MILES
2940 Oklahoma Rd.
Willow Grove, PA
19090

COURT OF COMMON PLEAS
MONTGOMERY COUNTY

Plaintiff

CIVIL ACTION

v.

STUDENT AID CENTER
2500 Northwest 79th St-Ste #190
Doral, FL
33122

DOCKET NO.:

Defendant

COMPLAINT

1. Plaintiff, NORMAN MILES, is an adult individual citizen and legal resident of the State of Pennsylvania, living at 2940 Oklahoma Rd., Willow Grove, PA, 19090.
2. Defendant, STUDENT AID CENTER, is a business corporation qualified to and regularly conducting business in, the Commonwealth of Pennsylvania, with its legal residence and principal place of business at 2500 NORTHWEST 79th St, Ste #190, Doral, FL 33122. Defendant can be served at that address.
3. Plaintiff avers that at all times material hereto, Defendant acted by and through its authorized agents, servants, officers, and/or employees, including Defendant, all of whom were acting within the scope of their employment.

JURISDICTION AND VENUE

4. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction".

5. Defendant regularly conducts business in the State of Pennsylvania and in the County of Montgomery, therefore, personal jurisdiction is established.

6. Venue is proper in Montgomery County pursuant to Pennsylvania Rules of Civil Procedure 1000 and 2179.

7. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.

PARTIES

8. Plaintiff is a natural person residing in Willow Grove, PA.

9. Defendant, STUDENT AID CENTER, is a company handling Telemarketing of goods and services with headquarters located at 2500 NORTHWEST 79th St, Ste #190, Doral, FL 33122.

10. Defendant is directly involved in the sale loan services, which are goods and/or services, to consumers throughout the State of Pennsylvania, including Montgomery County, through the use of advertising telephone calls placed to consumers, including Plaintiff.

11. Defendant regularly engages in "trade" and "commerce" in Willow Grove, PA as defined by 73 P.S. § 201-2(3)

12. Defendant is subject to, and required to abide by, the laws of the United States and the laws of Pennsylvania, which include the Telephone Consumer Protection Act of 1991, 47 USC § 227, *et seq.* ("TCPA") and its related regulations, including 47 C.F.R. § 64.1200, as well as the opinions, regulations and orders issued by the Federal Communications Commission to implement and enforce the TCPA, the telemarketing

regulations issued by the Federal Trade Commission, 16 C.F.R. § 310.4(d)(2), and the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1 – 201-9.3.

13. Defendant acted through their agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

14. Throughout the past year and prior, Defendant has called Plaintiff's cell phone(s) in connection with promotional efforts aimed at inducing Plaintiff to subscribe/purchase Defendant's loan services.

15. During these calls, Defendant has become hostile and combative, and has refused to stop calling Plaintiff's cell phone(s) debt despite numerous requests. Defendant also has repeatedly and continuously called Plaintiff and hung up without identifying itself.

16. Defendant also employed various phone numbers from different states. These numbers include, but are not limited to 682-808-4613; 914-466-3488; 702-359-5643, 888-521-4388; 949-326-9298. Plaintiff alleges and avers that the different numbers were used to deceive Plaintiff into answering the call even though Defendant was already informed to cease all such cal's.

17. Plaintiff alleges and avers that Defendant's conduct is deceptive and constitutes harassment.

COUNT I

THE TELEPHONE CONSUMER PROTECTION ACT (47 U.S.C. § 227)

18. In its action in contacting Plaintiff, Defendant violated the TCPA in the following ways:

a. Calling Plaintiff's cellular phone using an automated telephone dialing system in violation of 47 U.S.C. § 227 (b)(1)(A)(iii);

b. Calling Plaintiff's cellular phone using an artificial and/or pre-recorded voice in violation of 47 U.S.C. § 227 (b)(1)(B);

c. Repeatedly and continuously calling Plaintiff's cell phone for the purposes of marketing and solicitation despite being informed that no such calls were desired in violation of 47 U.S.C. § 227(b)(1).

d. Repeatedly and continuously calling Plaintiff's cell phone for the purposes of marketing and solicitation without voluntarily providing calling entity's duly registered full business name, in violation of 47 U.S.C. § 227(b)(3), (d)(3)(A).

e. Repeatedly and continuously calling Plaintiff's cell phone for the purposes of marketing and solicitation without voluntarily providing the caller's telephone number, in violation of 47 U.S.C. § 227(b)(3)(B), (d)(3)(A).

WHEREFORE, Plaintiff, NORMAN MILES, respectfully prays for a judgment as follows:

a. Statutory damages of \$500 for each violation of 47 U.S.C. § 227 (d)(3)(A) suffered pursuant to 47 U.S.C. § 227(b)(3)(B);

b. Treble damages of \$1,500.00 for each violation of 47 U.S.C. § 227 (d)(3)(A) pursuant to 47 U.S.C. § 227(b)(3)(C);

c. Statutory damages of \$500 for each violation of 47 U.S.C. § 227 (b)(1)(B) suffered pursuant to 47 U.S.C. § 227(b)(3)(B);

d. Treble damages of \$1,500.00 for each violation of 47 U.S.C. § 227 (b)(1)(B) pursuant to 47 U.S.C. § 227(b)(3)(C);

- e. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff; and
- f. Any other relief deemed appropriate by this Honorable Court.

COUNT TWO
THE PENNSYLVANIA UNFAIR TRADE PRACTICES AND CONSUMER
PROTECTION LAW, (73 P.S. § 201-1 – 201-9.3)

Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

19. Plaintiff is a "Person" as defined by 73 P.S. §201-2(2).
20. Defendant is a "Person" as defined by 73 P.S. §201-2(2).
21. In the context of advertising, the Act prohibits the following conduct:
 - a. Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services;
 - b. Causing likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another;
 - c. Using deceptive representations
22. Plaintiff alleges and avers that Defendant's conduct in charging incessantly calling Plaintiff, despite being told not to do so, and in using different numbers and hanging up/failing to identify itself, are violations of UFTP, 73 P.S. §201-2 et seq.
23. Plaintiff has suffered damages as aforesaid and hereby demand the full measure of their recovery pursuant to the claims asserted under UFTP, and brings this action to recover same. Such damages include but are not limited to: increased costs for cell phone bills, time lost from work answering/investigating the calls, and/or statutory damages of \$100.00, plus all collateral charges; consequential damages; incidental damages; attorney

fees and costs, as well as other expenses. The UFTPA authorizes the Court, in its discretion, to award up to three (3) times the actual damages sustained for violations. Plaintiff seeks these enhanced treble damages from Defendant.

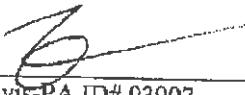
DAVIS CONSUMER LAW FIRM

By: 

Fred Davis-PA ID# 93907
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Tel - 1-855-432-8475/Facsimile-1-855-435-9294
Email: fdavis@usacreditlawyer.com

VERIFICATION

Fred Davis, states that he is the attorney for the Plaintiff herein; that he is acquainted with the facts set forth in the foregoing Complaint; that same are true and correct to the best of his knowledge, information and belief; and that this statement is made subject to the Penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsifications to authorities.



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